

**Response under 37 C.F.R. § 1.116
Expedited Procedure
Examining Group 1618**

PATENT
ATTORNEY DOCKET: 47237-0532-00-US (216940)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:
Kengo AKIMOTO et al.

Confirmation No.: 8835

Application No.: 10/529,014

Group Art Unit: 1618

Filed: May 5, 2005

Examiner: Nissa M. Westerberg

Title: COMPOSITION CONTAINING ARACHIDONIC ACID ALONE OR IN
COMBINATION WITH DOCOSAHEXAENOIC ACID FOR ENHANCING
COGNITIVE ABILITIES (As Amended)

Commissioner for Patents
U.S. Patent and Trademark Office
Customer Window, Mail Stop AF
Alexandria, VA 22314

Sir:

**NOTICE OF APPEAL TO THE
BOARD OF PATENT APPEALS AND INTERFERENCES**

Applicants hereby appeal to the Board of Patent Appeals and Interferences from the
decision of the Examiner dated March 2, 2009, finally rejecting claims 1-6, 8-19 and 32.

1. Extension of Time

The proceedings herein are for a patent application and the provisions of 37 C.F.R. §
1.136(a) apply.

- ☐ Applicants believe that no extension of time is required. However, this
conditional petition is being made to provide for the possibility that Applicants
have inadvertently overlooked the need for a petition and fee for extension of
time.

- ☒ Applicants request an extension of time, the fees for which are set out in 37 C.F.R. § 1.17(a), for the total number of months checked below:

<u>Total Months Requested</u>	<u>Fee for Extension</u>	<u>[Fee for Small Entity]</u>
<input type="checkbox"/> one month	\$ 130.00	\$ 65.00
<input type="checkbox"/> two months	\$ 490.00	\$ 245.00
<input checked="" type="checkbox"/> three months	\$ 1,110.00	\$ 555.00
<input type="checkbox"/> four months	\$ 1,730.00	\$ 865.00

Extension of time fee due with this request: \$1,110.00 .

If an additional extension of time is required, please consider this a Petition therefor.

2. Notice of Appeal Fee – 37 C.F.R. § 41.20(b)(1)

- ☒ The fee in the amount of \$540.00 to cover the Notice of Appeal fee is enclosed.
- ☐ The Commissioner is authorized to charge the Notice of Appeal fee of \$ _____ to Deposit Account No. 50-0573.

3. Fee Payment

- ☒ Total Fee (\$1,650.00 to include \$1,110.00 for the three-month extension of time fee and \$540.00 for the Notice of Appeal fee) are to be charged to a credit card. **WARNING: Information on this form may become public. Credit card information should not be included on this form.**
- ☐ The Commissioner is authorized to charge Deposit Account No. 50-0573 in the amount of _____ for the Notice of Appeal fee.

4. Constructive Petition

- ☒ **EXCEPT** for issue fees payable under 37 C.F.R. § 1.18, the Commissioner is hereby authorized by this paper to charge any additional fees during the entire pendency of this application including fees due under 37 C.F.R. §§ 1.16 and 1.17 which may be required, including any required extension of time fees, or credit any overpayment to Deposit Account 50-0573. This paragraph is intended to be a **CONSTRUCTIVE PETITION FOR EXTENSION OF TIME** in accordance with 37 C.F.R. § 1.136(a)(3).

Respectfully submitted,

DRINKER, BIDDLE & REATH LLP

Dated: September 1, 2009

By: Christopher P. Bruenjes
Christopher P. Bruenjes
Registration No. 62,941

Customer No. 055694
DRINKER, BIDDLE & REATH LLP
1500 K Street, N.W., Suite 1100
Washington, D.C. 20005-1209
Tel: (202) 842-8800
(202) 842-8465